

**2014 CONFLICT OF INTEREST CODE
BIENNIAL REVIEW REPLY FORM**

Contact Person: Marylou Bouthinhouse Telephone Number: 760-728-1125 ext. 130

Name of Agency: Fallbrook Public Utility District

Mailing Address: PO Box 2290, Fallbrook, CA 92088

This agency has reviewed its conflict of interest code and has determined that:

☒ **Amendments are necessary:** (Attach Amended Code)
(Check all that applies)

- ☐ Include new positions (including consultants) which must be designated
- ☒ Revise the titles of existing positions
- ☐ Delete titles of positions that have been abolished
- ☐ Delete positions that manage public investments
- ☐ Revise disclosure categories
- ☐ Other _____

☐ **No amendments are necessary.** Our agency's code accurately designates all positions which make or participate in the making of governmental decisions; the disclosure assigned to those positions accurately requires the disclosure of all investments, business positions, interests in real property and sources of income which may foresee-ably be affected materially by the decision made by those designated positions; and the code includes all other provisions required by Government Code Section 87302.

Signature of Chief Executive Officer: [Signature] Date: 8/5/14

You must complete this report regardless of how recently your code was approved or amended. **Please return this report no later than October 1, 2014 to:**

**Clerk of the Board of Supervisors
(Conflict of Interest Code)
1600 Pacific Highway, Room 402
San Diego, CA 92101**

Approved and/or authorized by the Board of Supervisors of the County of San Diego.	
Meeting Date: <u>12/2/14</u>	Minute Order No. <u>23</u>
By: <u>[Signature]</u>	Date: <u>12/2/14</u>
Deputy Clerk of the Board Supervisors	



990 East Mission Road
P.O. Box 2290
Fallbrook, California
92088-2290
(760) 728-1125
Fax (760) 728-6029
www.fpud.com

Board of Directors:

Milt Davies
Al Gebhart
Don McDougal
Archie D. McPhee
Bert Hayden

Staff:

Brian J. Brady
General Manager

Marcie Eilers
Admin Services Manager

Jack Bebee
Assistant General Manager

Robert H. James
Legal Counsel

Mary Lou Boultinghouse
Board Secretary

August 7, 2014

VIA CERTIFIED MAIL

Theresa Zurita, Senior Board Assistant
Clerk of the Board of Supervisors
1600 Pacific Highway, Room 402
San Diego, California 92101-2471

**RE: FALLBROOK PUBLIC UTILITY DISTRICT
2014 BIENNIAL REVIEW**

Dear Mrs. Zurita:

Please find enclosed the following to be filed and / or adopted by the San Diego County Board of Supervisors on behalf of the Fallbrook Public Utility District:

- 1) Biennial Review Reply Form,
- 2) Amended Conflict of Interest Code, and
- 3) Certified Copy of Resolution No. 4826.

I have enclosed the Conflict of Interest Code in its entirety; however, only Appendix A was amended. If you need anything further, please contact me at (760) 728-1125, extension 1130 or maryloub@fpud.com.

Sincerely,


Mary Lou Boultinghouse
Secretary

Enclosures

Article 3. **Conflict of Interest Code**

The California Government Code requires the District to adopt and issue a Conflict of Interest Code for internal use by its officers, employees and Directors.

The Fallbrook Public Utility District Board of Directors adopted the Fair Political Practices Commission's standard conflict of interest code.

The Fallbrook Public Utility District's Conflict of Interest Code which is made a part of and incorporated herein in this Administrative Code.

ARTICLE 3
Rev. 9/94
8/95
2/97
7/97
7/10
7/14

CONFLICT OF INTEREST CODE
OF
FALLBROOK PUBLIC UTILITY DISTRICT

**CONFLICT OF INTEREST CODE
OF
FALLBROOK PUBLIC UTILITY DISTRICT**

1. Standard Code of FPPC

The Political Reform Act of 1974 (Government Code Sections 81000, et seq.) requires each state and local government agency to adopt and promulgate a conflict of interest code. The Fallbrook Public Utility District has adopted heretofore such a code which should be revised and updated. The Fair Political Practices commission (FPPC) has adopted a regulation (2 Cal. Code of Regs., Section 18730) which contains the terms of a standard conflict of interest code, which can be incorporated by reference as a district's code. After public notice and hearing the regulation may be amended by the FPPC to conform to amendments in the Political Reform Act.

2. Adoption of Standard Code of FPPC

The provisions of Title 2 California Code of Regulations Section 18730 and any future amendments to it duly adopted by the FPPC are hereby incorporated by reference. This regulation and the Appendix attached hereto in which members of the Board of Directors and employees are designated and in which disclosure categories are set forth, shall constitute the Conflict of Interest Code of the Fallbrook Public Utility District. This Code shall take effect when approved by the San Diego County Board of Supervisors and shall thereupon supersede all prior codes adopted by the Fallbrook Public Utility District.

3. Filing of Statements of Economic Interests

Pursuant to Section 4 of the standard code, designated employees set forth in the Appendix shall file statements of economic interests with the Secretary of the Board of Directors of the Fallbrook Public Utility District. Upon receipt of the statements of the members of the Board of Directors and

the General Manager, the Secretary of the Board of Directors shall make and retain copies and forward the originals of these statements to the Clerk of the San Diego Board of Supervisors. Statements for all other designated employees shall be retained by the Fallbrook Public Utility District.

4. Effective Date

This Code shall be effective upon adoption by ordinance of the appropriate code reviewing body.

**(Regulations of the Fair Political Practices Commission, Title 2,
Division 6 of the California Code of Regulations)**

5. Provisions of Conflict of Interest Codes

(a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Government Code Section 87300 or the amendment of a conflict of interest code within the meaning of Government Code Section 87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections 81000, et seq. The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Government Code Section 87100, and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:

(1) Section 1. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs., Sections 18100, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

(2) Section 2. Designated Employees.

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on financial interests. These designated employees shall include candidates for office within the District who shall be required to file Form 730 with the District.

(3) Section 3. Disclosure Categories.

This code does not establish any disclosure obligation for those designated employees who are also specified in Government Code Section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their financial interests pursuant to Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections 87200, et seq.

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under Article 2 of Chapter 7 of the Political Reform Act, Government Code Section 87200; and

(C) The filing officer is the same for both agencies.¹

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of financial interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those financial interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the financial interests set forth in a designated employee's disclosure categories are the kinds of financial interests which he or she foreseeably can affect materially through the conduct of his or her office.

(4) Section 4. Statements of Economic Interests: Place of Filing.

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.²

(5) Section 5. Statements of Economic Interests: Time of Filing.

(A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) Candidates For Office. All candidates for office shall file Form 730 with the District within thirty (30) days of filing for candidacy.

¹ Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under Article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code Section 81004.

² See Government Code Section 81010 and 2 Cal. Code of Regs. Section 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

(C) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

(D) Annual Statements. All designated employees shall file statements no later than April 1.

(E) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.

(5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office provided he or she did not make or participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of their appointment. Such persons shall not file either an assuming or leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

- (1) File a written resignation with the appointing power;
and
- (2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or become entitled to receive, any form of payment by virtue of being appointed to the position.

(6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

(A) Contents of Initial Statements. Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) Contents of Assuming Office Statements. Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later.

(D) Contents of Leaving Office Statements. Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office

(7) Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information.

(A) Investments and Real Property Disclosure. When an investment or an interest in real property³ is required to be reported,⁴ the statement shall contain the following:

1. A statement of the nature of the investment or interest;
2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
3. The address or other precise location of the real property;
4. A statement whether the fair market value of the investment or interest in real property exceeds one thousand dollars (\$1,000), exceeds ten thousand dollars (\$10,000), or exceeds one hundred thousand dollars (\$100,000).

(B) Personal Income Disclosure. When personal income is required to be reported,⁵ the statement shall contain:

1. The name and address of each source of income aggregating two hundred fifty dollars (\$250) or more in value or fifty

³ For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

⁴ Investments and interests in real property which have a fair market value of less than \$1,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

⁵ A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expense received from a state, local or federal government agency.

dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;

2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000), or greater than ten thousand dollars (\$10,000);

3. A description of the consideration, if any, for which the income was received;

4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;

5. In the case of a loan, the annual interest rate and the security, if any, given for the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,⁶ the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity;

2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from

⁶ Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

such person was equal to or greater than ten thousand dollars (\$10,000).

(D) Business Position Disclosure. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) Acquisition or Disposal During Reporting Period. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

(8) Section 8. State Agency Prohibition on Receipt of Honoraria.

No member of a state board or commission, and no designated employee of a state agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (b), (c), (d), and (e) of Government Code Section 89502 shall apply to the prohibitions of this section.

(8.1) Section 8.1. State Agency Prohibition on Receipt of Gifts of \$250 or More.

No member of a state board or commission, and no designated employee of a state agency, shall accept gifts with a total value of more than two hundred fifty dollars (\$250) in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member

of the governing board of any public institution of higher education, unless the member is also an elected official.

Subsections (b), (c), (d), and (e) of Government Code Section 89504 shall apply to the prohibitions in this section.

(9) Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth one thousand dollars (\$1,000) or more;

(B) Any real property in which the designated employee has a direct or indirect interest worth one thousand dollars (\$1,000) or more;

(C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$250 or more in value provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

(9.3) Section 9.3. Legally Required Participation.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

(9.5) Section 9.5. Disqualification of State Officers and Employees.

In addition to the general disqualification provisions of Section 9, no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

(A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or

(B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value one thousand dollars (\$1,000) or more.

(10) Section 10. Manner of Disqualification.

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act must be accompanied by disclosure of the disqualifying interest. In the case of a voting body, this determination and disclosure shall be made part of the agency's official record; in the case of a designated employee who is the head of an agency, this determination and disclosure shall be made in writing to his or her appointing authority; and in the case of other designated employees, this determination and disclosure shall be made in writing to the designated employee's supervisor.

(11) Section 11. Assistance of the Commission and Counsel.

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Government Code Section 83114 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

(12) Section 12. Violations.

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Government Codes Sections 81000 - 91014. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Government Code Section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code Section 91003.

**APPENDIX A
CONFLICT OF INTEREST CODE
DESIGNATED USERS**

COLUMN I	COLUMN II
PUBLIC OFFICIAL'S FUNCTION OR TITLE	TYPE OF BUSINESS ENTITY, INVESTMENT, SOURCE OF INCOME, OR REAL PROPERTY DISCLOSURE
All individuals <u>whose duties involve contracting or purchasing</u> for the District of a Department of the District	Official listed in Column I shall disclose: (1) all sources of income; (2) all interests in real property; (3) all reportable investments, and (4) all business positions including, but not limited to, the following areas:
Members of the Board of Directors (1, 2, 4, 5, 6, 8, 10, 16, 18, 19))	1. All real property, wherever located.
Candidates for Board of Directors	2. Construction and building materials.
General Manager (1, 2, 3, 4, 5, 8, 10, 13, 15, 16, 17, 18, 19)	3. Engineering, surveying, architectural, and appraising.
Assistant General Manager (1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17)	4. Real estate development.
General Counsel (1, 4, 16, 18, 19)	5. Pipes, valves, pumps, motors, meters, or other water and/or wastewater system materials, parts or equipment.
Administrative Services Manager (2, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 18, 19)	6, Chlorine or other water system or wastewater treatment supplies.
Consultant**	7. Office equipment and supplies.
	8. Computer hardware, software, and computer services.
	9. Water quality testing.
	10. Motor vehicles, construction equipment, parts and service.

** Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The General Manager may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section.

Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The (executive director's or executive officer's) determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

The officials listed above in the left hand column are also "designated employees" who are subject to the provisions of this Code. Each such designated employee is required to disclose any financial interest in those categories set forth in the right-hand column above which are identified by the numbers listed opposite his or her title.

11. Equipment rental.
12. Petroleum products.
13. Safety equipment and supplies.
14. Newspaper, printing and reproduction services.
15. Banks and savings and loans.
16. Public utilities, private water companies.
17. Agricultural, including management, marketing, pesticide, and irrigation services.
18. Employment and manpower agencies.
19. Insurance, including brokers and agencies.

**FALLBROOK PUBLIC UTILITY DISTRICT
BOARD OF DIRECTORS**

CERTIFICATION

* * * * *

I, Mary Lou Boultinghouse, Secretary of the Board of Directors of the Fallbrook Public Utility District, do hereby certify that the attached and foregoing is a full, true, and correct copy of Resolution No. 4826 of said Board adopted at a regular meeting of the Board of Directors on July 28, 2014.

Executed this 29th day of July, 2014, at Fallbrook, California.


Secretary, Board of Directors
Fallbrook Public Utility District

RESOLUTION NO. 4826

**A RESOLUTION OF THE BOARD OF DIRECTORS OF FALLBROOK
PUBLIC UTILITY DISTRICT AMENDING ADMINISTRATIVE CODE -
ARTICLE 3, CONFLICT OF INTEREST CODE**

* * * * *

WHEREAS, the Board of Directors of the Fallbrook Public Utility District adopted the Fair Political Practices Commission's standard conflict of interest code on September 26, 1994;

WHEREAS, the Clerk of the Board for the County of San Diego has notified the District to conduct the biennial review of its Conflict of Interest Code pursuant to Government Code Section 87306.5;

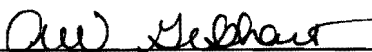
WHEREAS, Appendix A of the District's Conflict of Interest Code will require an amendment to the designated users;

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Column 1 of Appendix A, Designated Users, shall delete the title "Engineering and Planning Manager " and replace with "Assistant General Manager."

PASSED AND ADOPTED by the Board of Directors of the Fallbrook Public Utility District at a regular meeting of the Board held on the 28th day of July, 2014, by the following vote:

AYES:	Davies, Gebhart, Hayden, McDougal
NOES	McPhee
ABSENT:	None
ABSTAIN:	None



President, Board of Directors

ATTEST:



Secretary, Board of Directors